

### REMARKS

In the Office Action, claims 1-39 and 49-58 were rejected. More specifically,

- Claims 1-7, 9-24, 26-36, 49-55 and 58 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,598,023 (Drummond) in view of U.S. Patent No. 5,914,472 (Foladare);
- Claims 8 and 25 were rejected under 35 U.S.C. §103(a) as being unpatentable over Drummond in view of Foladare and U.S. Patent No. 6,434,403 (Ausems); and
- Claims 37-39, 56 and 57 were rejected under 35 U.S.C. §103(a) as being unpatentable over Drummond in view of Foladare and U.S. Patent No. 6,422,462 (Cohen).

Claims 1-39 and 49-58 have been cancelled. Claims 59-79 have been added. No new matter has been added as a result of these amendments. Upon entry of this Response, claims 59-79 are pending. For the reasons set forth hereinbelow, Applicants respectfully request that the rejections associated with the pending claims be withdrawn.

#### Claims 1-39 and 49-58

The cancellation of claims 1-39 and 49-58 has rendered these rejections moot.

#### Claims 59-64

Applicants submit that new claim 59 is nonobvious over Drummond in view of Foladare because the cited references, whether considered alone or in combination, fail to teach or suggest each and every limitation of claim 59. *See* MPEP §2143 (stating that one of the elements of a *prima facie* case of obviousness under §103(a) is that the prior art references must teach or suggest all of the claim limitations). More particularly, Applicants submit that the combination of Drummond and Foladare fail to teach or suggest, among other things, "receiving, at a merchant device, a system identification number and a biological sample proffered by the third party, wherein the system identification number is received without using a physical access device possessed by the third party," as recited in claim 59.

Drummond teaches accessing a HTTP record at a URL where the URL is determined based on information stored on a card. *See* Drummond, col. 12, line 63 – col. 13, line 11. In contrast, claim 59 discloses receiving a system identification number without using a physical access device possessed by the third party. *See* Specification, paragraph [0033]. In other words, the system identification number is not received from a card. In addition, Drummond does not receive a system identification number, but merely determines a URL.

Foladare does not teach the reception of a system identification number.

As such, Applicants submit that independent claim 59 is nonobvious over the combination of Drummond and Foladare because the cited references fail to teach or suggest each and every limitation of claim 59. *See* MPEP §2143. Applicants further submit that claims 60-65, which depend from and incorporate all of the limitations of claim 59, are also nonobvious over the cited references. *See* MPEP §2143.03 (stating that if an independent claim is nonobvious under 35 U.S.C. §103, then any claim depending therefrom is nonobvious). Accordingly, for the reasons set forth hereinabove, Applicants request that claims 59-65 are allowable over the Examiner-cited prior art.

#### **Claims 66 and 67**

Applicants submit that new claim 66 is nonobvious over Drummond in view of Foladare because the cited references, whether considered alone or in combination, fail to teach or suggest each and every limitation of claim 66. *See* MPEP §2143. More particularly, Applicants submit that the combination of Drummond and Foladare fails to teach or suggest, among other things, at least one of the following limitations recited in claim 66:

- “receiving, at a merchant device, a system identification number and a biological sample proffered by the third party, wherein the system identification number is received without using a physical access device possessed by the third party;” and
- “verifying an identity of the third party, said verifying being based on a comparison at said merchant device of data derived from the proffered biological sample to registered biological identification data that corresponds to said system

identification number, wherein said registered biological identification data is retrieved from said merchant device.”

The “receiving” limitation is not taught by Drummond or Foladare, whether considered alone or in combination, for the reasons described above in reference to claim 59.

In addition, Drummond teaches receiving information from a HTTP record accessible via a URL directed to a home HTTP server at the user’s home bank. *See* Drummond, col. 13, line 64 – col. 14, line 10. In contrast, claim 66 teaches that the registered biological identification data is retrieved from the merchant device which receives the biological sample, not the bank server.

Foladare does not teach or suggest the use or retrieval of registered biological identification data.

As such, Applicants submit that independent claim 66 is nonobvious over the combination of Drummond and Foladare because the cited references fail to teach or suggest each and every limitation of claim 66. *See* MPEP §2143. Applicants further submit that claim 67, which depends from and incorporates all of the limitations of claim 66, is also nonobvious over the cited references. *See* MPEP §2143.03. Accordingly, for the reasons set forth hereinabove, Applicants request that claims 66 and 67 are allowable over the Examiner-cited prior art.

#### **Claims 68-71**

Applicants submit that new claim 68 is nonobvious over Drummond in view of Foladare because the cited references, whether considered alone or in combination, fail to teach or suggest each and every limitation of claim 68. *See* MPEP §2143. More particularly, Applicants submit that the combination of Drummond and Foladare fail to teach or suggest, among other things, “notifying the primary account holder for the account that the third party has accessed the account after the account access has completed,” as recited in claim 68.

The Examiner correctly states that Drummond does not teach that a person can be a third party. Accordingly, Drummond cannot teach notifying a primary account holder that a third party has accessed the account.

Foladare merely teaches requesting approval of a primary account holder prior to permitting a third party to complete a transaction. *See* Foladare, Abstract; col. 3, line 2-22; col. 4, line 39-57. As such, the notification of the primary account holder must occur during the transaction. Foladare does not teach notifying the primary account holder after the account access has completed, as is required by claim 68. *See* Specification, paragraphs [0056]-[0057].

As such, Applicants submit that independent claim 68 is nonobvious over the combination of Drummond and Foladare because the cited references fail to teach or suggest each and every limitation of claim 68. *See* MPEP §2143. Applicants further submit that claims 69-71, which depend from and incorporate all of the limitations of claim 68, are also nonobvious over the cited references. *See* MPEP §2143.03. Accordingly, for the reasons set forth hereinabove, Applicants request that claims 68-71 are allowable over the Examiner-cited prior art.

#### **Claims 72-79**

Applicants submit that new claim 72 is nonobvious over Drummond in view of Foladare because the cited references, whether considered alone or in combination, fail to teach or suggest each and every limitation of claim 72. *See* MPEP §2143. More particularly, Applicants submit that the combination of Drummond and Foladare fails to teach or suggest, among other things, at least one of the following limitations recited in claim 72:

- “receiving a second biological sample from the primary account holder;” and
- “verifying the identity of the primary account holder, said verifying being based on a comparison of the data derived from the second biological sample to registered biological identification data for the primary account holder for the account.”

Drummond merely teaches receiving a biological sample from a person performing a transaction. *See* Drummond, col. 12, line 63 – col. 13, line 11. In contrast, claim 72 discloses receiving a second biological sample as a means of verifying the identity of the primary account holder. *See* Specification, paragraph [0059].

Foladare does not teach the reception of a biological sample. Foladare also does not teach verifying the identity of a primary account holder. Foladare merely teaches receiving an authorization from a primary account holder without verifying the primary account holder's identity.

As such, Applicants submit that independent claim 72 is nonobvious over the combination of Drummond and Foladare because the cited references fail to teach or suggest each and every limitation of claim 72. *See* MPEP §2143. Applicants further submit that claims 73-79, which depend from and incorporate all of the limitations of claim 72, are also nonobvious over the cited references. *See* MPEP §2143.03. Accordingly, for the reasons set forth hereinabove, Applicants request that claims 72-79 are allowable over the Examiner-cited prior art.

All of the stated grounds of rejection have been properly traversed, accommodated or rendered moot. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding rejections. There being no other rejections, Applicants respectfully request that the current application be allowed and passed to issue.

If the Examiner believes for any reason that personal communication will expedite prosecution of this application, I invite the Examiner to telephone me directly.

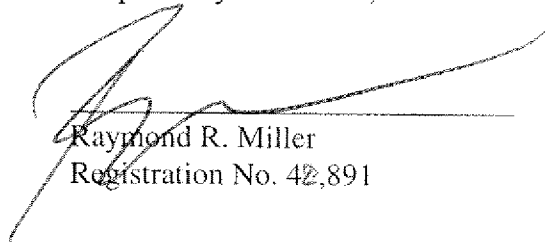
*Conclusion*

The Commissioner is hereby authorized to charge any additional fees which may be required for this Amendment or credit any overpayment to Deposit Account No. 50-0436.

Respectfully Submitted,

Dated: July 5, 2006

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